

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**ALLIANTGROUP, L.P.,**

*Plaintiff,*

**vs.**

**BRAD MOLS,**

*Defendant.*

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**NO. 4:16-CV-03114**

**PLAINTIFF ALLIANTGROUP, L.P.’S MOTION TO COMPEL PAYMENT OF  
SANCTIONS AWARD AND MOTION FOR SANCTIONS AGAINST DANIEL  
LEWICKI**

Plaintiff alliantgroup, L.P. (“alliantgroup” or “Plaintiff”) respectfully requests that this Court enter a written order compelling third-party Daniel Lewicki (“Lewicki”) to pay Plaintiff the fees and expenses ordered by this Court during the June 12, 2017 hearing as counsel for Lewicki refuses to remit payment without a written order.

**I.  
INTRODUCTION AND BACKGROUND**

**A. June 12, 2017 Hearing.<sup>1</sup>**

During this hearing the Court discussed Lewicki’s failure to appear at his subpoenaed deposition. June 12, 2017 Hearing Tr. at 36:16-42:6. The Court unequivocally stated “Okay. So I will award you those costs for Mr. Lewicki, court reporter Certificate of Nonappearance plus attorney time, two tenths of an hour, if that’s what you are saying it is . . . And that will be assessed against Mr. Lewicki” *Id.* at 41:25-42:3; 42:5-6.

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<sup>1</sup> June 12, 2017 hearing transcript excerpts are attached hereto as **Exhibit A**.

**B. Affidavit in Support of Fees and Costs.**

Pursuant to the Court's Order, Plaintiff submitted an affidavit from attorney, Matthew L. Simmons, regarding the amount requested in sanctions. Doc. 45-2. The affidavit shows court reporter costs of \$350.00 and videographer cost of \$305.00 plus \$72.00 in attorneys' fees (.2 hours) for a total of \$727.00 in fees and costs. *Id.*

**C. Lewicki's Motion to Reconsider.**

In response to the Court's June 12, 2017 Order, Lewicki filed objections and a motion to reconsider the order granting sanctions against him. Doc. 69. In this Motion, Lewicki specifically recognizes the Court's June 12, 2017 Order, but objects to the amount requested, \$727.00, as unreasonable without further explanation. *Id.*

**D. July 21, 2017 Hearing.<sup>2</sup>**

During the July 21, 2017 hearing, the Court specifically overruled Lewicki's motion to reconsider as follows:

Mr. Simmons: "I believe it's 69. It's Lewicki's motion – it's either 68 or 69. It's Lewicki's motion to reconsider the sanctions the Court imposed upon him for being a no-show and failing to file a Motion to Quash at his previously scheduled deposition. I believe the costs we're seeking, through an active me, is like \$700. This is a part of the verbal order that Court entered right here.

THE COURT: All right. Well, that is overruled."

July 21, 2017 Hearing Tr. at 39:20-40:2.

**E. Post-Hearing Demands for Payment.**

After not receiving payment from Mr. Lewicki for over thirty days after the July 21, 2017 hearing, alliantgroup's counsel sent a letter which, among other demands, requested the payment

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<sup>2</sup> July 21, 2017 hearing transcript excerpts are attached hereto as **Exhibit B**.

of sanctions as ordered by the Court.<sup>3</sup> On September 8, 2017, Lewicki counsel, Ms. Debra Lauzon, requested “a copy of the Order re: the amount allegedly owed by Lewicki.”<sup>4</sup> In response to this request and despite the clear orders of the Court, counsel provided Ms. Lauzon an account of the Court’s Order. *Id.* On September 15, 2017, Ms. Lauzon responded that no Order has been provided to her therefore no payment will be remitted.<sup>5</sup> Thus, necessitating this motion.

## II. MOTION TO COMPEL

Plaintiff seeks the Court to enter a written order compelling Lewicki’s compliance with the Court’s June 12, 2017 Order sanctioning him. Moreover, due to the continued lack of cooperation and disdain for this Court’s orders, specifically including the Court’s June 12, 2017 Order, Plaintiff seeks additional sanctions against Lewicki and/or his counsel pursuant to Fed. R. Civ. P. 37(b)(1)—including, but not limited to, contempt of Court and payment of the expenses of the upcoming October 16, 2017 deposition of Lewicki.

## III. CONCLUSION

Accordingly, Plaintiff seeks the Court to enter a written order compelling Lewicki’s compliance with the Court’s June 12, 2017 Order sanctioning him for the amount of \$727.00 to be paid to alliantgroup’s counsel, Matthew L. Simmons, and made out to alliantgroup, L.P. within five calendar days of the Court’s order. Moreover, Plaintiff seeks additional sanctions against Lewicki and/or his counsel pursuant to Fed. R. Civ. P. 37(b)(1)—including, but not limited to, contempt of Court and payment of the costs of the upcoming October 16, 2017 deposition of Lewicki.

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<sup>3</sup> August 25, 2017 Letter to Lewicki’s counsel is attached hereto as **Exhibit C**.

<sup>4</sup> Email communication between counsel is attached hereto as **Exhibit D**.

<sup>5</sup> September 15, 2017 response to alliantgroup’s deficiency letter is attached hereto as **Exhibit E**.

Respectfully submitted,

/s/ John T. Simpson

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**CERTIFICATE OF CONFERENCE**

I hereby certify that I, Matthew L. Simmons, counsel for alliantgroup, L.P. conferred with counsel for Mr. Lewicki about the relief sought in this motion as described above on August 25th and September 14th. As discussed above, Lewicki's counsel refuses to remit payment of amount Ordered by the Court.

/s/ Matthew L. Simmons

Matthew L. Simmons

**CERTIFICATE OF SERVICE**

I hereby certify that on October 2, 2017, I electronically filed the foregoing document using the CM/ECF system, which will automatically send notification of this filing to the following counsel of record:

/s/ Matthew L. Simmons

Matthew L. Simmons